

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PADCOM, INC.,

Plaintiff,

v.

NETMOTION WIRELESS, INC.,

Defendant.

C. A. No. 05-889-SLR

**DEFENDANT NETMOTION WIRELESS, INC.'S MOTION TO DISMISS THE
DECLARATORY JUDGMENT COMPLAINT OF PADCOM, INC. FOR LACK OF
JURISDICTION PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE
12(b)(1) AND 12(h)(3)**

Defendant NetMotion Wireless, Inc. ("NetMotion"), by and through its undersigned counsel, respectfully submits this Motion to Dismiss the Declaratory Judgment Complaint of Padcom, Inc. ("Padcom") for Lack of Jurisdiction Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(h)(3).

Dated: January 6, 2006

FISH & RICHARDSON P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2006, I electronically filed **DEFENDANT NETMOTION WIRELESS, INC.'S MOTION TO DISMISS THE DECLARATORY JUDGMENT COMPLAINT OF PADCOM, INC. FOR LACK OF JURISDICTION PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 12(b)(1) AND 12(h)(3)** with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following Delaware counsel. In addition the filing will also be sent via hand delivery:

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I hereby certify that on January 6, 2006, I have mailed by First Class Mail, the document(s) to the following non-registered participants:

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/s/ William J. Marsden, Jr.
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**(PROPOSED) ORDER TO DISMISS THE DECLARATORY JUDGMENT
COMPLAINT OF PADCOM, INC. FOR LACK OF JURISDICTION PURSUANT
TO FEDERAL RULES OF CIVIL PROCEDURE 12(b)(1) AND 12(h)(3)**

Having reviewed the briefs submitted by the parties regarding Plaintiff's Padcom, Inc.'s Complaint for Declaratory Judgment,

IT IS ORDERED that Defendant's Motion is GRANTED.

UNITED STATES DISTRICT JUDGE